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EXAMINER

GILL, ERIN M

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,807

Applicant(s)

ULLRICH ET AL.

Examiner

Erin-Michael Gill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 91-138 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 91-112, 121-134 and 136-138 is/are rejected.
- 7) ☒ Claim(s) 113-120 and 135 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment and arguments filed March 5, 2003 Applicant's arguments with respect to claim 46, which is identical to amended claim 91, have been considered but are moot in view of the new ground(s) of rejection.
2. Indeed, the apparatus of Kerschgens, US Patent No. 4560883 (hereafter Kerschgens) is a *reflector, which* has a structure as of the claimed elements of the present invention. The Office claim of an inherent housing having similar structure will be supported beyond the abstract of Kerschgen cited in the prior Office Action. Prior art apparatus' such as Mewissen et al. US Patent Application Publication No. 2002/0117638 (hereafter Mewissen), teach the reflectors being contained in a housing of identical structure as of the present invention. Therefore, the rejections regarding the housing are clarified and the remainder of the previous action on the merits are repeated below, correlating the previous discussions to the current amended numbering.

Claim Objections

3. Claim 116 is objected to because of the following informalities: "one" should be "on". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. Claims 101, 104-106, and 136-138 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claims 104-106 and 136-138 recites the limitation "the dodecagon". Claim 101 recites the limitation "the dish". There is insufficient antecedent basis for the limitations in these claims.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 91-102, 112, 122, 125 and 134 are rejected under 35 U.S.C. 102(a) as being anticipated by Mewissen. Mewissen figure 1 clearly depicts all the claimed elements, with Official Notice being taken that an electrical connection must be present to make the invention of Mewissen operable and that the vaulted housing wall portion is configured convexly with respect to the base of the pyramid.

8. Regarding claim 125, paragraph 2 of the Mewissen specification further describes the filtering out of large quantities of UV radiation. This filtering is acting as an interference filter. Official Notice taken.

9. Regarding claim 134, figure 1 clearly shows a base being in connection with the UV radiator.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 103-106, 123, 124, and 123-138 are rejected under Claims 130-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mewissen. Mewissen discloses all of the limitations in the respective base claims however fails to teach the particular dimensions or

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ranges of the present invention. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tanning module have these dimensions and values since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

12. Claims 107-111, 126, and 127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerschgens in view of Mewissen. The locations of the references within Kerschgens are denoted parenthetically below. Mewissen teaches a tanning module according to claim 91, however fails to teach the housing having at least one air exhaust opening in the area of the pyramid, wherein a flange is provided at the at least one air exhaust opening, wherein an air exhaust hose is connected to the flange, wherein a reducing disk is present to reduce the size of the air exhaust opening, wherein an air exhaust opening is arranged on each of three sides of the pyramid. Kerschgens teaches all of these limitations (claim 1 of Kerschgens includes a cooling means, and figure 2 shows a particular embodiment of the means). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the cooling system of Kerschgens with the module of Mewissen because for the purpose of operating a tanning module the cooling apparatus of Kerschgens has been found to be preferable.

13. Claims 130-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mewissen in view of Wijtsma US Patent No. 4839513 (hereafter Wijtsma). Mewissen teaches all of the limitations of claim 91 however fails to teach the at least one touch contact disposed on the housing, with the least one radiation filter, wherein the touch contact is guided through the reflector perpendicular to the radiation emitting area of the reflector, wherein the

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touch contact is guided through the intake plate perpendicular to the radiation emitting area of the reflector or wherein to indicate breaking of the at least one radiation filter at least one touch contact is disposed on the intake plate and rests on the at least one radiation filter. The abstract of Wijtsma overcomes this by teaching all of the preceding limitations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to integrate the invention of Wijtsma into the apparatus of Mewissen because for the purpose of preventing radiation leakage when the filters are broken, the system of Wijtsma has been found preferable.

14. Claims 121 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mewissen in view in Johannsen, James W. et al., US Patent No. 5736744 (hereafter Johannsen). Mewissen teaches the tanning module according to claim 91, however fails to teach the at least one radiation filter being releasable from the housing through a swiveling mechanism. Johannsen figure 1 overcomes this limitation by teaching the inclusion of a hinge in a tanning module. Official Notice is taken that a hinge is a swiveling mechanism. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the invention of Johannsen into the system of Mewissen because for the purpose of easily removing a filter, as suggested in Johannsen col. 2 lines 32-34, the apparatus of Johannsen is preferable.

15. Regarding claims 128 and 129, Mewissen in view of Kerschgens teaches a tanning module according to claim 91 including a cooling inlet, however fails to teach the air intake opening being present between the at least one radiation filter and the housing or in the housing between the at least one radiation filter and the reflector. It would have been obvious to one of ordinary skill in the art to make these modifications since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Allowable Subject Matter

16. Claims 113-120 and 135 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Claims 113 and 114, upon which all other claims depend, describe a unique configuration for circulating air in a UV emitting system. Prior art such as Kerschgens cited above do not include the adjustable plate system. Ericsson, Sylve J. D. US Patent No. 4989343 describes a cooling air configuration that use edge related apertures. However, the plate system in that apparatus was disposed between the lamp and a material that was to be further cooled with the air that has just cooled the UV lamp. Relocating this plate amounts to a critical difference and not a design choice because as disclosed by Applicant, this specific arrangement yields the result of an effective cooling of the system without the conventionally undesirable dead spots in the housing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erin-Michael Gill whose telephone number is 703-305-7858. The examiner can normally be reached on M-F (8:30-5:00 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on 703-308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



EMG

May 19, 2003



JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800